declares that if the writing appears on its face to contain the full engagement of the parties, no extrinsic agreement can be shown. This rigid doctrine, aimed to simplify, is really unworkable. It is often harsh and unjust and, like the old Statute of Fines, must break down under such defences as fraud and mistake. A better rule — practicable and just — is that of *Chapin* v. *Dobson*, 78 N. Y. 74. The incompleteness of the instrument need not appear on its face. If viewed in the light of all the surrounding circumstances, it does not appear to contain the whole agreement between the parties, an additional collateral bargain may be shown, subject always to the proviso that the sound judgment of the court does not regard it as inconsistent with the actual terms of the document. *Brown* v. *Byrne*, 3 E. & B. 703.

Under this lenient rule the result of the present case is too rigid. In the case of an actor of little note the term "services" might well be applied to any part which emergency might require. But in the case of a well-known performer one might expect an engagement of a particular character. Extrinsic facts would seem to indicate that the plaintiff was accustomed to take certain parts such as she contended was the actual understanding of the parties. In the light of all the circumstances the contract would not appear to be complete, and the collateral agreement not repugnant to the writing. Apart from any technical meaning of the word "services," a question not raised in the case, the Massachusetts court might sustain the defendant in compelling the plaintiff to shift scenery.

CONTRACTS — MEASURE OF DAMAGES. — In the case of *Connolly* v. *Sullivan*, 53 N. E. Rep. 143 (Mass.), the view is expressed that, when one party to a contract is prevented by the other from completing performance, the one so prevented may recover the value of the labor and materials already furnished, independently of the contract price. The facts show that an agreement was made by terms of which certain excavations were to be made for a stipulated sum. The work proved more expensive than was contemplated. The plaintiff, however, continued until stopped by the defendant, at which time the value of labor and materials furnished was considerably in excess of the sum for which the plaintiff had contracted to do the whole work. The question, then, was whether the plaintiff in view of such a termination of the contract by the defendant should be allowed to recover the full value of such labor and materials, regardless of the contract price.

A distinction is to be made between those cases when the plaintiff himself is in default, and when, as in this instance, the defendant prevents further performance. Keener, Quasi-Contracts, p. 313, n. In this latter class of cases, there is a conflict of authority. In *Koon* v. *Greenman*, 7 Wend. 121, when work was stopped by reason of defendant's failure to furnish materials as agreed, a ruling that recovery was not limited by the rates of contract was reversed as error. But in *Derby* v. *Johnson*, 21 Vt. 17, the plaintiff recovered an amount in excess of the contract price. The court attempted to distinguish the case from *Koon* v. *Greenman*, *supra*, but its success is at least open to question. *Doolittle* v. *McCullough*, 12 Ohio St. 360, presents facts not unlike the present case. There a charge that the value of the work was to be found without reference to the contract was held erroneous.

It is argued in support of the rule in the present case that the contract ought not to be considered as still existing as a measure of recovery, inasmuch as the defendants, who themselves have terminated it, would then be allowed to take advantage of it in defeating the plaintiff's recovery for work and materials expended of which the defendants have had the benefit. But it seems a much stronger argument that, had the contract been completed, only the contract price would have been paid, and that when the work is stopped a real saving is effected to the plaintiff, for he is thereby relieved from further expenditures which, under a completed contract must be a net loss to him. If he himself had terminated the contract, the contract price would be the limit of recovery. Accordingly, on principle and authority, it is desirable not to follow the rule suggested in the principal case.

INTERSTATE RENDITION. — The case of *Eaton* v. *State of West Virginia*, 91 Fed. Rep. 760 (C. C. A. Fourth Cir.), presents a question regarding interstate extradition of criminals not often directly raised. The plaintiff in error was indicted for arson in West Virginia. Requisition was made to the Governor of Illinois when the culprit was found and he was surrendered to the demanding State. In an application for a writ of *habeas corpus* his contention was that he was not present in West Virginia when the crime was committed and he was not, therefore, a fugitive from justice of that State. In proceedings in error the writ was refused, on the ground that when the warrant was issued in Illinois it was enough if merely presumptive proof of the relator's flight from West Virginia was given. The case involves a discussion of the nature and the extent of proof of escape which a demanding State ought to furnish in asking for the surrender of an offender.

In the absence of decisions squarely on the point, it is said on the one side that the State making requisition ought to give to the executive from whom surrender is desired evidence proving the fact of escape. In *Ex parte Reggel*, 114 U. S. 642, this view is clearly supported, on the ground that anything short of proof of actual flight might create an injustice by requiring surrender, on the strength of official records, of one whom the executive knew to be not in fact a fugitive from the demanding State. On the other side, it is contended that submission of records of formal indictment, with an affidavit, is sufficient ground on which to base the presumption of actual flight. Where this view prevails, the relator cannot overthrow the presumption as to his escape by merely denying the truth of the records. *Ex parte Swearingen*, 13 S. C. 74; *Hibler* v. *The State*, 43 Tex. 197 (Sup. Ct.).

Owing to the importance of the question as affecting the rights of citizens, the greatest freedom from technicalities is desirable. But a proper regard for the accuracy of official records must also be maintained. By adopting the course suggested in the principal case, both ends are kept in view, and, so far as practicable, brought together. It recognizes the common-law view of crimes as local in character by holding that the presentations of the indictment and affidavit is sufficient *prima facie* evidence of actual flight of the one demanded. Due credence is therefore given to these papers of the demandant. The executive on whom requisition is made is given presumptive proof upon which it is justified in issuing a warrant for arrest and surrender, while the relator may rebut